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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,226	04/12/2004	Manfred Hermann	TER-P030541	4625
24131	7590	02/22/2006	EXAMINER	
LERNER GREENBERG STEMER LLP			CECIL, TERRY K	
P O BOX 2480			ART UNIT	
HOLLYWOOD, FL 33022-2480			PAPER NUMBER	
			1723	
DATE MAILED: 02/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/823,226

**Applicant(s)**

HERMANN ET AL.

**Examiner**

Mr. Terry K. Cecil

**Art Unit**

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11-30-2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 19-22 is/are allowed.  
6) ☒ Claim(s) 1-2 and 13-18 is/are rejected.  
7) ☒ Claim(s) 3-12 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 4-12-2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date three.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

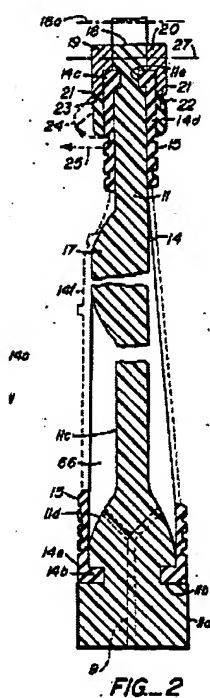
A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis (U.S. 4,911,839). Davis discloses a membrane 14 having a membrane surface without

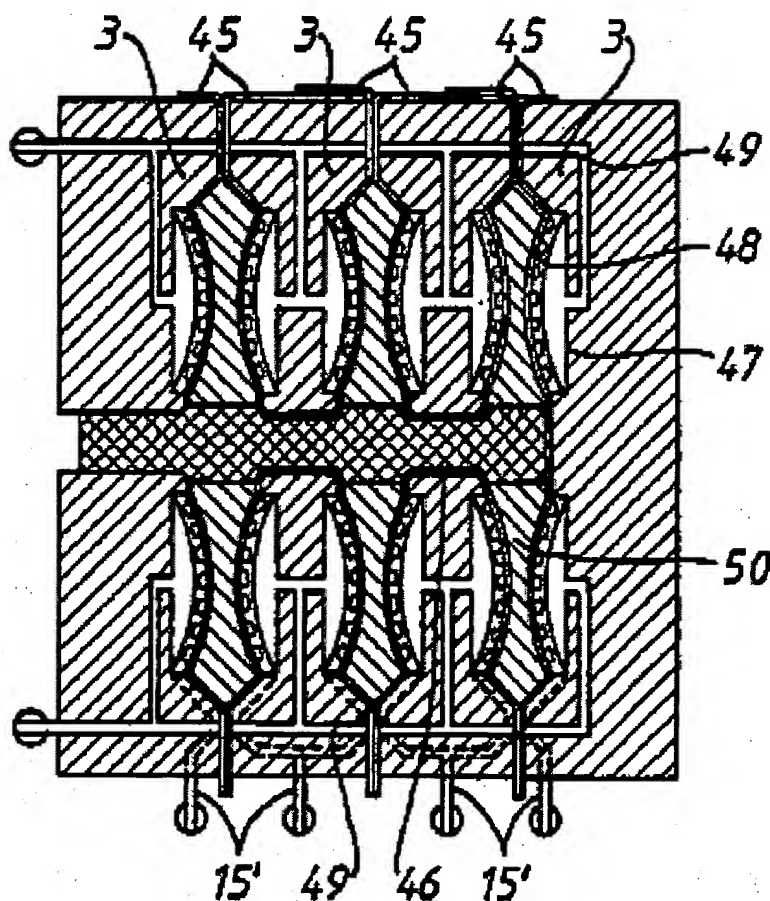


perforations and including a plurality of bosses 15 as supporting elements. A membrane margin 14b encloses the membrane on a radially outer surface thereof and an inner margin 14c encloses an inner margin thereof. The membrane also includes a planar portion 14f without supporting elements supported by a stay boss 17 (col. 4, lines 18-21) [as in claims 1-2]. Davis also discloses a membrane plate having a plate margin including a peripheral groove 11b for retaining therein a peripheral bead of the membrane (the end of 14b) [as in claim 13]. As shown in figure 1, mirror portions are found on either side of a longitudinal axis extending from the top to the bottom of the figure and passing through 16 [as in claim 14]. It is pointed out that neither the

Art Unit: 1723

membrane of claim 1 nor the membrane/plate of claim 13 is in combination with the sludge inflow that is present when in a final mounting state. Such is an intended use of these subcombinations that fails to further limit the structures thereof.

3. Claims 15-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Aigeldinger et al. (U.S. 5,558,773). As shown in his figure 3, Aigeldinger teaches chamber plates 3 and all the limitations of the aforementioned claims.



Art Unit: 1723

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aigeldinger in view of Gwilliam (U.S. 3,276,594). Gwilliam teaches a non-return valve (col. 3, lines 44-49). It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the non-return valve of Gwilliam on the sludge inflows of Aigeldinger in order to have the benefit of preventing sludge inflow re-entering and soiling the feed pipes.

***Drawings***

6. The drawings are objected to because of the following:

- They are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the non-return valves of claim 17 must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

Art Unit: 1723

include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite because of the following reasons:

- The following terms lack antecedent basis: “filtration chamber” (claim 15).
- Claims 16-18 are rejected since they suffer the same defects as the claims from which they depend.

***Allowable Subject Matter***

9. Claims 3-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 19-22 are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter: The closest cited art— Aigeldinger and Davis—fail to anticipate or render obvious, alone or in any proper combination, the membrane including a planar area having a surface larger than that of one of the supporting elements and positioned opposite the sludge inflow of the chamber plate within the plate stack or filter press of claims 19 and 22.

***Response to Arguments***

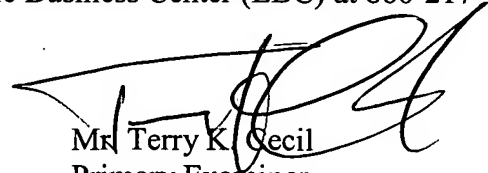
12. Applicant's arguments filed 11-30-2005 have been fully considered but they are not persuasive.

- Applicant arguments concerning Davis are not convincing since the sludge inflow that is opposite the planar region *when* the membrane or membrane/plate is in a final state (in combination with a chamber plate having sludge inflows) is not a positively recited structure in the claims. In claims 1-2 and 13, such is an intended use of these subcombinations that fails to further limit the structures thereof.

Art Unit: 1723

13. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is (571) 273-8300.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil  
Primary Examiner  
Art Unit 1723

TKC  
February 20, 2006